



CHAPTER 70.

An Act to incorporate The Victoria Foundation.

[Assented to 1st April, 1936.]

WHEREAS David Leeming, Francis Edward Winslow, Ernest Preamble
 Willet McMullen, Burges James Gadsden, and Robert
 Henry Brackman Ker, all of the City of Victoria, in the Province
 of British Columbia, have by their petition represented that it is
 desirable to create a perpetual body to receive gifts and donations
 in trust for charitable purposes, and to entrust to responsible
 trustees the custody and management of the property so given or
 donated, to the end that the property and the net annual income
 should be devoted perpetually to charitable purposes as herein-
 after enacted in accordance with the directions of an advisory
 board whose members shall give their services gratuitously and
 shall be chosen periodically from men and women evidencing an
 interest in the welfare of the community:

And whereas it is expedient to grant the prayer of the said
 petition:

Therefore, His Majesty, by and with the advice and consent
 of the Legislative Assembly of the Province of British Columbia,
 enacts as follows:—

1. This Act may be cited as "The Victoria Foundation Act." Short title
2. In this Act, unless the context otherwise requires:— Interpretation
 "Corporation" means The Victoria Foundation:
 "Trust company" means a company incorporated or regis-
 tered or deemed to be registered under the provisions
 of the "Trust Companies Act."
3. There is hereby created a corporation which shall be a Incorporation
 body politic and corporate under the name of "The Victoria
 Foundation."

Advisory Board.

4. The Corporation shall be composed of the members for the time being of the Advisory Board provision for whose appointment is hereinafter made. Pending such appointment, the said Advisory Board shall consist of the following persons: David Leeming, Francis Edward Winslow, Ernest Willet McMullen, Burges James Gadsden, and Robert Henry Brackman Ker, all of the City of Victoria, of whom the first named shall be Chairman.

Powers.

5. The Corporation may:—

- (a.) Accept and carry into effect trusts for charitable purposes:
- (b.) Receive devises, bequests, or donations of and hold, control, and administer property of every kind and description, whether real or personal and wheresoever situate:
- (c.) If not in contravention of the provisions of any trust, devise, bequest, or donation under which it is received, convert any property at any time or from time to time received or held by the Corporation into any other form, and for such purpose sell, dispose of, assign, transfer, or exchange the same:
- (d.) Lease any lands at any time held by the Corporation:
- (e.) Pass on and entrust to one or more trust companies the possession or custody and the management of all or any portion of the personal property and the management of the real property at any time or from time to time received or held by the Corporation, in such manner and in such portions as the Advisory Board may deem proper, and enter into agreements with such trust companies with regard thereto:
- (f.) Pay out of the funds of the Corporation, taxes, insurance premiums, costs of repairs, and outgoings in respect of any property devised, bequeathed, or given to it, and all expenses of and incidental to the management of the Corporation:
- (g.) Abandon any property devised, bequeathed, or donated to the Corporation which the Advisory Board are of opinion it is not advisable in the interest of the Corporation to retain.

Trust companies
administrative
trustees.

6. (1.) The Corporation, as soon as practicable after a devise, bequest, or donation has been made or received and become operative, shall appoint one or more trust companies to have the possession or custody and the management of the personal property and the management of the real property included in the bequest, donation, or devise, or such portion or portions thereof as may be allotted to each of such trust companies by the Advisory

Board, to act as administrative trustee or trustees thereof for the Corporation. In making original appointments of such trustees, any directions in writing given by the testator or donor and expressed in the instrument creating the trust shall be given effect to. The Corporation may at any time on a resolution duly passed by a majority of the members of the Advisory Board at a meeting of the Advisory Board revoke the appointment of any trust company or trust companies as such trustee or trustees, and appoint another trust company or trust companies as new trustee or trustees, whereupon the trust company whose appointment is revoked shall forthwith surrender the custody or deliver up possession of the trust property to the new trustee appointed in its place.

(2.) The title to the trust property shall be in the Corporation unless the Advisory Board shall otherwise determine.

7. All transfers, assignments, or conveyances of property by the Corporation shall be executed by and on behalf of the Corporation in such manner as the Corporation may from time to time by by-law prescribe, and shall also be executed by the trust company the trustee thereof for the time being. Execution of deeds.

8. Each trust company, so long as it acts as administrative trustee for the Corporation, shall:— Powers of trust companies.

- (a.) Have the possession or custody of and manage and deal with in an efficient manner all property entrusted to it by the Corporation, and make all investments, reinvestments, conversions, sales, or dispositions thereof which may at any time or from time to time appear necessary or desirable and which are approved of by the Advisory Board. No new investments or reinvestments shall be made in any property or security other than securities in which trustees may invest trust-moneys under the laws of the Province unless authorized by the provisions of the trust, devise, bequest, or donation:
- (b.) Observe, carry out, perform, and give effect to all terms, provisions, and conditions which may in any instance be attached to the devise, gift, or donation of any property by the donor thereof and expressed in the instrument creating the trust:
- (c.) Give effect to and observe all directions with regard to any property entrusted to it by or on behalf of the Corporation under the provisions of this Act, which may at any time or from time to time be given in writing by the Advisory Board, if such directions do not in any instance, except as provided in section 10 hereof, contravene or be not inconsistent with any of

the terms, provisions, or conditions referred to in the next preceding subsection hereof or any of the provisions of this Act:

- (d.) Distribute from the moneys in its possession such sums and in such manner for charitable purposes as the Advisory Board shall at any time or from time to time by resolution direct:
- (e.) Pay all such accounts and expenses of the Corporation as the Advisory Board shall direct in writing:
- (f.) Retain for its remuneration such sum or sums as the Advisory Board shall by resolution fix:
- (g.) Pay or retain all expenses properly incurred by it as shall be approved by the Advisory Board.

Appointment of
Advisory Board.

9. (1.) The Advisory Board shall consist of five residents of the City of Victoria, of whom the Mayor of the City of Victoria for the time being by virtue of his office shall be one. The other members of the Advisory Board shall be appointed by a resolution to be passed by a majority of the following persons for the time being at a meeting to be held in accordance with the by-laws of the Corporation, namely: The Lieutenant-Governor of the Province or, in his absence, the Administrator of the Province; the Prime Minister of the Province; the Chief Justice of British Columbia; the senior County Court Judge of the County of Victoria; and the Mayor of the City of Victoria. A majority of such persons shall form a quorum for a meeting. All of the said appointors shall themselves be eligible for appointment as members of the Advisory Board.

(2.) The term of office of the members of the Advisory Board shall be fixed by the by-laws of the Corporation and shall not be less than two years nor more than five years, and the Corporation may by by-law provide that the term of office of the respective members shall be varied in order to ensure that there shall be at all times at least one member of the Advisory Board familiar with its policy. If no such by-laws are passed the term of office of the members of the Advisory Board shall be two years. Vacancies, however created, shall from time to time be filled for the unexpired term in the same manner as other members of the Advisory Board are appointed.

(3.) The members of the Advisory Board shall not be entitled to any remuneration for their services.

Distribution of
moneys for charitable
purposes in Victoria
and radius of 28 miles

10. (1.) The Advisory Board is empowered to determine by resolution to be passed by a majority of the Advisory Board the manner in which the moneys available in each fiscal year shall be used and distributed for such charitable purposes as will, in the absolute discretion of such majority, best promote or help the

mental, moral, and physical improvement of the inhabitants of the City of Victoria and of the area within a radius of twenty-eight miles of the City Hall thereof for the time being, and to effectuate such purposes it is empowered to determine what charitable institutions within the limits of the City of Victoria or of such area are to benefit and to what extent the same shall benefit. The Advisory Board shall, subject as hereinafter provided, in so determining, respect and be governed by the terms, provisions, and conditions expressed by the testator or any donor in the instrument creating the trust: Provided that if in the course of time after the death of the testator or donor conditions should arise whereby in the opinion of the Advisory Board a departure from such terms, provisions, or conditions would further the true intent and object of this Act, the Advisory Board shall have power upon obtaining the authority of a Judge of the Supreme Court of British Columbia to make such departure to the extent necessary to further such true intent and object. The application to such Judge shall be made by petition or by summons in chambers, and the provisions of section 79 of the "Trustee Act" mutatis mutandis shall apply to such application.

(2.) In the absence of any direction by the testator or donor it shall be deemed that all moneys are to be invested and the net income devoted in perpetuity for charitable purposes as provided in this Act or any amendments thereto, but subject to the provisions of section 13 hereof.

11. Where property has been devised, given, or donated to the Corporation and the testator or donor is desirous that a part of the income derivable therefrom or the capital thereof should be distributed for charitable purposes for the benefit of citizens of municipalities or areas other than that mentioned in section 10 hereof, and so indicates in the instrument creating the trust, the Advisory Board may accept and exercise the trust in respect of the distribution of such part as fully and effectually as in respect of the remainder.

*Distribution outside
of Victoria and
surrounding district*

12. The Advisory Board may appoint a secretary at a salary and shall approve of the accounts of all expenditures before transmitting same to the trust company for payment.

*Appointment of secretary
and approval of
accounts*

13. By a resolution approved by all the members of the Advisory Board any part of the capital constituting the trust properties vested in the Corporation may be withdrawn and disbursed from time to time for the purposes mentioned in clause 10 hereof: Provided, however, that not more than five per centum of the entire amount held by the Corporation as capital at the time of any withdrawal shall be so withdrawn, except capital

*Distribution of
part of capital*

authorized to be withdrawn or disbursed by the provisions of the trust, devise, bequest, or donation under which it is received, and no subsequent withdrawal except as aforesaid shall be made until the amount of the capital shall be at least equal to the amount thereof at the time of the last previous withdrawal. Any capital disbursements made under this section shall be replaced from income unless provided for by a donation for that purpose.

Annual audit.

14. (1.) The Corporation shall cause an audit to be made at least once in every fiscal year by an independent auditor of the receipts and disbursements of each separate gift or donation, and shall cause to be published in two newspapers published in the City of Victoria a certified statement by such auditor showing in detail the investments made of all funds vested in the Corporation, the amount of income received during the preceding fiscal year, and the purpose for which the income had been used, and a classified statement of the expenses of the trust companies and of the Advisory Board. The said statement shall also show the amount of property which testators or donors have devised, given, or donated to the Corporation to become effective in the future and the names of such testators or donors.

(2.) It shall be the duty of the trust companies to give full information and permit the necessary inspection to enable such audits to be made.

By-laws

15. The Corporation may pass by-laws regulating the carrying-out of such duties as are by this Act assigned to it or the Advisory Board, including the fixing of the fiscal year, the time or times of distribution and audit and of the publication thereof; the term of office of the members of the Advisory Board; the appointment of a chairman; meetings of the persons mentioned in subsection (1) of section 9 hereof, and such other matters as may be deemed advisable for the convenient and efficient carrying-out of the objects of this Act.

Rule against perpetuities not to apply

16. The rule against perpetuities shall not apply to the trusts of any property devised, bequeathed, or donated to the Corporation for or devoted by the Corporation to charitable purposes.

VICTORIA B.C.

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